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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/511,267

10/20/2004

Georg Kammler

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EXAMINER

HUSON, MONICA ANNE

ART UNIT

PAPER NUMBER

1732

MAIL DATE

DELIVERY MODE

01/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/511,267	Applicant(s) KAMMLER, GEORG	
	Examiner Monica A. Huson	Art Unit 1732	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 13-21,23 and 24.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Although applicant contends that the prior art cited in the rejections do not suggest the claimed invention, the examiner maintains her rejections.

Applicant contends that Hashimoto, when combined with Huff, does not suggest the claimed process because Hashimoto does not mention polyamide materials. This is not persuasive because Hashimoto was cited to show the addition of a blowing (i.e. foaming) agent into a polymeric material. Hashimoto was not cited to show the primary molding material, and it is not clear that the molding material and foaming agent used primarily by Hashimoto would not be successful if combined with the process of Huff. Applicant contends that Hashimoto also does not other various steps of the claimed method, but Hashimoto was not cited to show those steps.

Applicant contends that Hashimoto's teaching of adding a foaming agent does not suggest the claimed method steps because he does not specify adding the foaming agent for manufacture of an automotive heat exchanger tank. This is not persuasive, as various articles disclosed in Para. 134 of Hashimoto can be considered heat exchanger tanks (e.g. car cooler housing). Further, applicant contends that Hashimoto does not add such an additive during the molding process. This is not persuasive because Hashimoto discloses in Para. 133 that the additives are blended with the neat resin composition as part of the inclusive injection molding process (i.e. the molding composition is blended as a first step of injection molding, then the composition is molded as a second step). Finally, applicant contends that "foaming agents" used by Hashimoto could not be considered to be physical blowing agents. This is not persuasive, as there is no evidence to support this assertion. Note that arguments of counsel cannot take the place of evidence in the record (MPEP 2145).

Applicant contends that there is no reason to combine Hashimoto and Huff. This is not persuasive as Hashimoto gives many reasons why foaming agents are desirable during injection molding of automotive parts. Examples of some advantage are listed in paragraphs 122 and 133 (e.g. light weighing, high value of stiffness, superior impact strength).



Monica A Huson
January 5, 2007



CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER

1/5/07